

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Randall Riley Davidson

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Dodd B. Fisher, Fisher, Fowler & Williams
18538 Mack Ave., Grosse pointe Farms, MI 48126 (313) 458-8276

DEFENDANTS

United States Postal Service,
United States of America and John Doe

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1
- Citizen of Another State ☐ 2
- Citizen or Subject of a Foreign Country ☐ 3
- DEF ☐ 1 Incorporated or Principal Place of Business In This State
- ☐ 2 Incorporated and Principal Place of Business In Another State
- ☐ 3 Foreign Nation
- PTF ☐ 4
- ☐ 5
- ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability			<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud			<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending			<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage			<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input checked="" type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability			<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability				<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury				<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice				<input type="checkbox"/> 485 Telephone Consumer Protection Act	
<input type="checkbox"/> 195 Contract Product Liability					<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 196 Franchise					<input type="checkbox"/> 850 Securities/Commodities/Exchange	
					<input type="checkbox"/> 890 Other Statutory Actions	
					<input type="checkbox"/> 891 Agricultural Acts	
					<input type="checkbox"/> 893 Environmental Matters	
					<input type="checkbox"/> 895 Freedom of Information Act	
					<input type="checkbox"/> 896 Arbitration	
					<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision	
					<input type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 2675(a),
Brief description of cause:
Plaintiff tort claim, injured in motor vehicle accident

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDALL RILEY DAVIDSON,
Plaintiff,

-vs-

Hon.
Case No.

UNITED STATES POSTAL SERVICE,
UNITED STATES OF AMERICA and
JOHN DOE

Defendants.



**FISHER
FOWLER
& WILLIAMS**

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Attorneys

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Aimee Fowler, Esq.
Daniel Williams, Esq.
Erin E. Avey, Esq.
Kurt Koning Esq.

Of Counsel

Christopher J. Nesi, Esq.

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COMPLAINT

NOW COMES Plaintiff RANDALL RILEY DAVIDSON, through his attorneys,
FISHER FOWLER & WILLIAMS, and for his Complaint against Defendants, states the
following.

1. Plaintiff, RANDALL RILEY DAVIDSON, is a resident of Dearborn Heights,
Michigan.
2. Defendant, UNITED STATES POSTAL SERVICE, (herein after USPS) is a
governmental agency of defendant USA, and the owner of the motor vehicle involved in this
matter.
3. Defendant USA is a party to the action by virtue of 28 U.S.C. §§ 1346(b) and
2671.

4. Defendant, JOHN DOE, is resident of,
5. The amount of controversy exceeds \$75,000

General Allegations

6. Plaintiff incorporates by reference the allegations set forth in paragraphs 1-5.
7. Pursuant to 28 U.S.C. § 2675(a), Plaintiff has presented an administrative claim against the USPS and John Doe, alleging personal injuries stemming from an incident on May 24, 2018. Plaintiff's administrative claim has been assigned Case no. 482-10-00419967A (Tort Claim Examiner, Donna Dye).
8. On August 19, 2019, Plaintiff's administrative claim was denied.
9. On February 7, 2011, Plaintiff traveling on bicycle on the sidewalk on the east side of Telegraph Rd., in the city of Dearborn Heights, MI. Plaintiff was traveling on sidewalk in front of Taco Bell. A USPS vehicle exiting the drive of Taco Bell onto Telegraph Road failed to see Plaintiff and struck his bike. The USPS vehicle continued proceeding north on Telegraph Road and did not stop. Mr. Davidson was thrown off his bicycle resulting in his injuries.
8. Mr. Davidson was taken via EMS to Oakwood/Beaumont Hospital where he was treated for his injuries. Mr. Davidson's treatment by several medical doctors as a result of his injuries arising out of the accident herein requires ongoing medical treatment and care.
9. As a result of the accident, Plaintiff sustained the following injuries, including but not limited to:
 - (a) Neck and back injuries;
 - (b) Lumbar radiculopathy, including radiation to lower left leg;
 - (c) Cervical strain and cervical radiculopathy including EMG findings consistent with C5-C7 bilateral radiculopathy/irritability and aggravation to right-sided cervical radiculopathy, including new onset numbness and tingling in upper extremities;

- (d) Severe muscle spasms and nerve pain;
- (f) Pain, humiliation, anxiety, emotional distress, embarrassment, past and future, and other non-economic loss and damage; and
- (g) Plaintiff suffers emotional trauma and stress in daily living as a direct and proximate result of his pain and suffering, and
- (h) Other economic losses, past, present and future.

COUNT I. Negligence and Gross Negligence as to Defendants United States Postal Service, United States of America and John Doe

- 10. Plaintiff incorporates by reference the allegations set forth in paragraphs 1-9.
- 11. At the time of the accident herein, Defendant John Doe was operating a USPS Vehicle pursuant to his employment with Defendant USPS.
- 12. That the collision herein was caused by Defendant John Doe's careless actions and failure to use reasonable care, failure to stop in assured clear distance; this being negligence and gross negligence by said Defendant who had a duty to operate her vehicle in a careful and non-negligent manner which would not endanger other persons. This duty was owed to the general public and to Plaintiff in particular.
- 13. That Defendant, by his acts and omissions, violated his duty to the public in general and Plaintiff in particular, each and every act of negligence and gross negligence by Defendant being a direct and proximate cause of Plaintiff's damages and injuries as follows:
 - (a) In operating said motor vehicle in a reckless, careless, negligent and heedless manner without due regard for the rights and safety of others, and more particularly, the Plaintiff herein; and without the caution and circumspection as required by law; and without lookout for others or in a manner so as to endanger or be likely to endanger property and persons, in violation of MCLA 257.626, MSA 9.2326 and MCLA 257.626(b), MSA 9.2326(2) and in violation of the common law.
 - (b) In operating his vehicle in a willful and wanton disregard for the safety of persons or property and in a manner without making proper observations;

and in failing to have her motor vehicle under control to avoid such collision, contrary to the common law and MCLA 257.626, MSA 9.2326(a).

- (c) In failing to maintain a careful lookout;
- (d) In failing to operate a vehicle at a speed that permitted him or her to stop in the assured clear distance ahead;
- (e) In failing to maintain a proper lookout ahead, or make proper observation, and failing to see what was there to be seen or anticipate what might be there; as a reasonable and prudent driver would have if he had made proper observations, contrary to common law and said failure to make proper observation resulted in Defendant's vehicle colliding into the bicycle that Plaintiff was riding at the time.
- (f) In failing to control and stop the vehicle before colliding into the bicycle that was lawfully traveling in the intersection in front of the Taco Bell on Telegraph Rd., in Dearborn Heights, this action by the Defendant being without warning, contrary to MSA 9.2348 and common law.

14. That as a direct result of the Defendant's negligence and gross negligence which are in violation of the common law and Michigan statutes, which were the proximate cause of Plaintiff's injuries, the Plaintiff sustained serious and permanent injuries and damages; and substantial impairment of bodily functions and in particular without limiting the injuries enumerated in paragraph 9.

15. Plaintiff demands a trial by jury in this action.

WHEREFORE, Plaintiff demands a fair and just Judgment according to the law and evidence in an amount exceeding \$2,000,000.00 Dollars, plus costs, interest and attorney fees.

Respectfully submitted,

By: /s/ Dodd B. Fisher

DODD B. FISHER (P51382)

FISHER, FOWLER & WILLIAM, PLC

Attorneys for Plaintiffs

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d.fisher@ffwplc.com

Dated: August 12, 2020

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of record and all parties to the above cause via e-filing at their respective addresses, as disclosed by pleadings of record herein, on August 12, 2020. I declare under penalty of perjury, that the statement above is true to the best of my information, knowledge and belief.

/s/ Janee Almond

JANEE ALMOND